IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 631

DAVID CARLINER, MARY ELLEN CARTER GROGAN, WILHELMINA VINCEL HETZEL, ARTHUR W. JACKSON, ROBERT GRAYSON McGUIRE, JR., and WILLIAM WARFIELD ROSS, Petitioners

v.

COMMISSIONER OF THE DISTRICT OF COLUMBIA, DISTRICT OF COLUMBIA COUNCIL, et al., Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR REHEARING

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In *Evans v. Cornman*, No. 236, October Term, 1969, which was argued before this Court on January 22, 1970, it has been assumed that the denial of the right to vote to 12 residents of a federal enclave in Montgomery County, Maryland presents a substantial constitutional question. See decision below at 295 F. Supp. 654. The primary question which appears to be presented there is whether such a denial is a violation of the Equal Protection Clause. See Brief of the United States as Amicus Curiae, p. 3.

The question here, not dissimilar, is whether the denial of the right to vote to the citizens of another federal enclave, the District of Columbia, is a violation of the Due Process Clause of the Fifth Amendment.

This Court has held, so firmly that it appears settled, that what is in conflict with the Equal Protection Clause as it affects residents of the various states, violates the Due Process Clause as it affects the residents of the District of Columbia. See *Bolling v. Sharpe*, 347 U.S. 497 and *Shapiro v. Thompson*, 394 U.S. 618.

The question presented here thus seems closely related to that in *Evans v. Cornman*. If it were to be held by this Court to be a violation of the Equal Protection Clause for the State of Maryland to deny the right to vote to 12 residents of a 317 acre Federal enclave, a substantial constitutional question seems clearly to be posed as to whether the Due Process Clause similarly forbids the Congress of the United States from denying the citizens of the District of Columbia that same right.

Petitioners therefore respectfully request that their petition for a writ of certiorari be reconsidered and suggest that it may be appropriate to defer disposition of this petition pending the decision of this Court in *Evans v. Cornman*.

Respectfully submitted,

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